

RECORDATION NO. 10131 - ② F
Filed 1425

MAR 15 1979 - 11 40 AM
INTERSTATE COMMERCE COMMISSION

ASSIGNMENT

DATED MARCH 15, 1979

BETWEEN

SKIVA INTERNATIONAL, INC.
OWNER OR VENDEE

AND

C & H RAILWAYS, LTD.
(ASSIGNEE)

COVERING 100 GENERAL PURPOSE BOX CARS

Filed and recorded with the Interstate Commerce
Commission pursuant to 49 U.S.C. 11303 (formerly
Section 20c of the Interstate Commerce Act) on
_____, at _____,
Recordation No. _____.

ASSIGNMENT made this 15th day of March, 1979, between SKIVA INTERNATIONAL, INC., a New York corporation (hereinafter called Owner or Vendee), and C & H RAILWAYS, LTD., a Delaware Corporation and wholly owned subsidiary of Owner (hereinafter called Assignee).

WHEREAS, by letter dated April 20, 1978, from PULLMAN STANDARD DIVISION OF PULLMAN INCORPORATED (hereinafter called Builder) to REX RAILWAYS, INC. (hereinafter called Rex or the Manager), Builder acknowledged receipt of Rex's telex order dated April 18, 1978, covering Two Hundred (200) 70-ton, 50' 6" Box Cars in accordance with Builder's proposal dated April 13, 1978, and bidding specification No. 3722 dated September 15, 1977 (such letter of April 20, 1978, and all documents referred to therein being hereinafter referred to as the Purchase Order); and

WHEREAS, by letter dated as of February 13, 1979, from Rex to TWITTER, INC. (hereinafter called Vendor) (said letter being hereinafter called the Letter of Assignment), Rex assigned to Vendor and Vendor accepted all of Rex's right, title and interest, and Vendor assumed all of Rex's obligations, under the Purchase Order to the extent of the first One Hundred (100) Box Cars delivered thereunder (hereinafter collectively called the Equipment); and

WHEREAS, Vendor, Rex and the Vendee have entered into a conditional sale agreement (hereinafter called the Conditional Sale Agreement) covering the sale and delivery by the Vendor and the purchase by the Vendee of the Equipment on the conditions therein set forth which Conditional Sale Agreement was amended by Amendment Agreement #1; certain obligations of the Vendee under the Conditional Sale Agreement as amended by Amendment Agreement #1 being guaranteed by Rex-Noreco, Inc., a New Jersey corporation (hereinafter called Guarantor); and

WHEREAS, the Vendee has contracted with the Manager to manage and maintain the Equipment pursuant to a Management Agreement (hereinafter called the Management Agreement); and

WHEREAS, the Manager has entered into an equipment schedule (hereinafter called the Equipment Schedule) with Lenawee County Railroad Company, Inc. (hereinafter called the Lessee) signed on behalf of the Lessee on October 9, 1978, which Equipment Schedule (1) is attached to and amends a Lease Agreement made as of September 23, 1977, between the Manager and the Lessee and (2) provides that the Manager entered into the Equipment Schedule as principal or agent for parties to be named in an amendment (hereinafter called the Designating Amendment) to the Equipment Schedule to be delivered to the Lessee in accordance with

the provisions of Section 1(a) of the Lease Agreement, as amended by the Equipment Schedule; and

WHEREAS, the Manager and the Owner have delivered to the Lessee a Designating Amendment identifying the Owner as the principal for whom the Manager is acting with respect to, and as the owner of, the Equipment; and

WHEREAS, The Provident Bank (hereinafter called Lender), Vendor, Manager, Owner and Guarantor have entered into a Finance Agreement (hereinafter called the Finance Agreement) for the financing of the Equipment; and

WHEREAS, the Lender has acquired, pursuant to an agreement and assignment (hereinafter called the Assignment), the security title, rights and interests of the Vendor under the Conditional Sale Agreement in the Equipment, all upon and subject to the terms and conditions of the Finance Agreement; and

WHEREAS, the Vendee has assigned to the Lender for security, pursuant to a lease agreement assignment (hereinafter called the Lease Agreement Assignment) and management agreement assignment (hereinafter called the Management Agreement Assignment), all the right, title and interest of the Vendee under the Lease and Management Agreement, respectively; and

WHEREAS, the Owner has executed a promissory note (hereinafter called Promissory Note) in favor of the Lender

in the amount of \$2,626,125 to evidence Owner's obligations under the Conditional Sale Agreement; and

WHEREAS, the Owner is willing to assign all of its right, title and interest in the Equipment and in the various above-mentioned agreements to the Assignee and the Assignee is willing to accept said assignment, assume all of the Owner's duties and obligations under said agreements and become the maker of a new promissory note to replace the Promissory Note.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the Vendee, the receipt of which is hereby acknowledged, and the mutual covenants herein contained, the parties hereby agree as follows:

1. In accordance with Article 14 of the Conditional Sale Agreement the Vendee hereby assigns, transfers and sets over unto the Assignee all of the Vendee's right, title and interest in and to the Equipment and assigns all its rights, title, interest, powers, privileges and remedies thereunder to the Assignee and delegates all of its duties and obligations thereunder to the Assignee and the Assignee hereby assumes the duties and obligations of Vendee thereunder and under any other documents or agreements relating thereto, or to the Equipment.

2. In accordance with the second paragraph of

Paragraph 15 of the Finance Agreement, the Vendee hereby assigns all of its rights, title, interest, powers, privileges and remedies thereunder to the Assignee and delegates all of its duties and obligations thereunder to the Assignee, and the Assignee hereby assumes said duties and obligations of the Vendee thereunder and under any documents or agreements relating thereto or to the Equipment.

3. In accordance with Section 17 of the Management Agreement, the Vendee hereby assigns all of its rights, title, interest, powers, privileges and remedies thereunder to the Assignee and delegates all of its duties and obligations thereunder to the Assignee, and the Assignee hereby assumes said duties and obligations of the Vendee thereunder and under any documents or agreements relating thereto or to the Equipment.

4. In accordance with Section 8 of the Management Agreement Assignment, the Vendee hereby assigns all of its rights, title, interest, powers, privileges and remedies thereunder to the Assignee and delegates all of its duties and obligations thereunder to the Assignee, and the Assignee hereby assumes said duties and obligations of the Vendee thereunder and under any documents or agreements relating thereto or to the Equipment.

5. In accordance with Section 13 of the Lease Agreement, the Vendee hereby assigns all of its rights, title, interest, powers, privileges and remedies under the Lease to the

Assignee and delegates all of its duties and obligations thereunder to the Assignee, and the Assignee hereby assumes said duties and obligations of the Vendee thereunder and under any documents or agreements relating thereto or to the Equipment.

6. In accordance with Section 8 of the Lease Agreement Assignment, the Vendee hereby assigns all of its rights, title, interest, powers, privileges and remedies thereunder to the Assignee and delegates all of its duties and obligations thereunder to the Assignee and the Assignee hereby assumes the duties and obligations of Vendee thereunder and under any other documents or agreements relating to the Equipment.

7. The Assignee hereby accepts the assignment of the Vendee's right, title and interest in and to the Equipment and the Vendee's right, title, interest, powers, privileges and remedies in and under the agreements set forth in paragraphs 1 through 6 herein.

8. The Assignee hereby assumes and agrees to comply with, and be bound by all of the terms and covenants of, and to perform all the duties and obligations of, the Vendee under the Conditional Sale Agreement, the Finance Agreement, the Management Agreement and Management Agreement Assignment, the Lease and the Lease Agreement Assignment, and under any other documents or agreements relating to the Equipment, in the same manner and with the same force and effect as if the undersigned had originally executed all of said documents as Owner or Vendee.

9. The Assignee hereby agrees to execute a promissory note in favor of the Lender in the amount of \$2,626,125 to evidence its obligations under the Conditional Sale Agreement which note shall replace the Promissory Note issued by Vendee to Lender.

10. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York.

11. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Interstate Commerce Commission for recordation and delivered to the Lender shall be deemed the original counterpart and all other counterparts shall be deemed duplicates thereof.

12. No modification or amendment to this Assignment shall be valid unless in writing and executed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, as of the date first above written.

SKIVA INTERNATIONAL, INC.

By: Albert Chulhan

President

C & H RAILWAYS, LTD.

By: Albert Chulhan

President

STATE OF *New York*)
 :SS:
COUNTY OF *New York*)

On this 15th day of March, 1979, before me personally appeared Albert Chehebar, to me personally known, who being by me duly sworn, says that he is the President of Skiva International, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(seal)

Martin S. Sussman
(Title of Officer)

My commission expires March 30, 1979

MARTIN S. SUSSMAN
Notary Public, State of New York
No. 30-4500640
Qualified in Nassau County
Commission Expires March 30, 1979

STATE OF *New York*)
 :SS:
COUNTY OF *New York*)

On this 15th day of March, 1979, before me personally appeared Albert Chehebar, to me personally known, who being by me duly sworn, says that he is the President of C & H Railways, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(seal)

Martin S. Sussman
(Title of Officer)

My commission expires March 30, 1979

MARTIN S. SUSSMAN
Notary Public, State of New York
No. 30-4500640
Qualified in Nassau County
Commission Expires March 30, 1979

ACKNOWLEDGEMENT OF ASSIGNMENT

Each of the undersigned acknowledge receipt of a copy of, and due notice, of the Assignment made by the foregoing Assignment between Skiva International, Inc. and the C & H Railways, LTD., dated March 15, 1979 and acknowledge that in accordance with the terms of the agreements described in said Assignment, Skiva International, Inc. is released from any and all obligations under said agreements.

The Provident Bank
Lender

By: Barbara L. Haroch, Asst. V.P.

Twitter, Inc.
Vendor

By: Paul & Patricia Per.

Rex Railways, Inc.
Manager

By: Robert W. Gruber, Pres.

Rex-Noreco, Inc.
Guarantor

By: Paul & Patricia Per.